

Testimony by Felice D. Gaer, Chair United States Commission on International Religious Freedom

Hearing on "Human Rights and U.S.-Russian Relations: Implications for the Future"

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Thank you for this opportunity to testify on behalf of the United States Commission on International Religious Freedom. I plan to summarize the Commission's testimony in my oral remarks, but would like to request that my full written statement be included in the record.

I would like to take the opportunity, on this, the 30th anniversary of the establishment of the Helsinki Commission, to express appreciation to this body for its excellent and valuable advocacy of human rights in the countries that make up the Organization for Security and Cooperation in Europe, or OSCE. Throughout the past 30 years, Commissioners on the Helsinki Commission and their expert staff have worked effectively to ensure and maintain a focus on the human rights agenda in the context of this important international organization. And it has changed the international climate.

As you know, a delegation from this Commission traveled to Russia just last month. We visited Moscow, St. Petersburg, and Kazan, the capital of the Republic of Tatarstan. The Commission met with Russian government officials from the National Security Council, the Presidential Administration, the Ministry of Foreign Affairs, the Justice Ministry's Federal Registration Service, the Presidential Council on Religious Affairs, as well as the President of the Republic of Tatarstan and other regional and local officials and legislators. The delegation also met with representatives from a wide range of Russia's religious communities, including Metropolitan Kirill, External Affairs spokesman of the Moscow Patriarchate of the Russian Orthodox Church, and academics, legal advocates, and representatives of human rights organizations.

As a result of its visit to Russia, the Commission delegation found five major areas of concern:

- The rise in xenophobia and ethnic and religious intolerance in Russia, resulting in increasing violent attacks and other hate crimes, and the government's failure adequately to address this serious problem.

- The Russian government's challenging of international human rights institutions and its persistent claim that foreign funding of Russian human rights organizations constitutes illegitimate interference in Russia's internal affairs.
- Official actions related to countering terrorism that have resulted in harassment of individual Muslims and Muslim communities.
- New amendments to the law on non-commercial organizations (i.e., NGOs, which includes religious organizations) that may be used to restrict severely their ability to function.
- Continuing restrictions by the Russian authorities on the exercise of freedom of religion or belief, particularly at the regional and local levels.

I will expand briefly on each of these specific concerns.

First, the Commission is concerned about the Russian government's failure adequately to investigate and prosecute hate crimes. Russia reportedly now has 12 million migrants, most of whom are Muslims from former Soviet republics. Many Russian human rights groups have concluded that crimes based on ethnic or religious hatred have become more and more violent, as is demonstrated by the killings of African students and Tajik migrants in St. Petersburg this year, as well as the knife attack in a Moscow synagogue earlier this year that injured nine Jewish worshippers.

Although many of these attacks are motivated by ethnic hatred, some attacks against Muslim, Jewish, Protestant, and other religious communities are explicitly motivated by religious factors. Indeed, leaders from these three communities expressed concern to us about the growth of chauvinism in Russia, and the underlying belief of many ethnic Russians that their country should be reserved for them and that the country's so-called "true religion" is Russian Orthodoxy. Many official and other interlocutors suggested to us that this view is fueled in part by the perception that Russian identity is currently threatened due to a mounting demographic crisis, stemming from a declining birthrate and high mortality rate among ethnic Russians. Hostile articles in the de facto state-controlled Russian media contribute to the atmosphere of intolerance, as do statements of some public officials and religious leaders. Persons who have investigated or been publicly critical of hate crimes in Russia have themselves been subject to violent attacks, including Nikolai Girenko, a St. Petersburg expert on xenophobia, who often testified in trials concerning hate crimes and who was gunned down in June 2004. Local police claimed in May-two years after the murder and shortly before the G-8 meeting-to have found the five men guilty of the killing (and that the triggerman was killed by police in a shoot-out), but some who are familiar with the case have questioned whether these are the real perpetrators. In addition, several judges who have ruled against skinheads have received death threats.

Of particular concern to the Commission is that many Russian officials continue to label crimes targeting ethnic or religious communities simply as

"hooliganism." It is notable that officials from the Leningrad Oblast declined to meet with the Commission because, in their words, there was no government official responsible for monitoring or prosecuting xenophobia and hate crimes since "their region did not have these problems." Although some efforts are being made to prosecute these cases, more can and should be done to ensure that law enforcement agencies recognize these crimes for what they are - hate crimes are human rights abuses-and prevent and punish such hate crimes, including if ethnicity and religion are involved. While vigorously promoting freedom of expression, Russian public officials-as well as leaders of religious communities-should take steps to discourage rhetoric that promotes xenophobia or intolerance, including religious intolerance.

The new mechanisms to address intolerance and related human rights issues recently established by the OSCE are directly relevant in this context. Due in part to the efforts of the Helsinki Commission and our Commission, working with the U.S. delegation to the OSCE, the OSCE has taken decisions in recent years obligating all Member States to develop and implement policies against ethnic and religious intolerance in their societies. As part of these policies, Member States, including Russia, are required to report to the OSCE on the specific measures that have been undertaken on a national level to address hate crimes, measures which should include maintaining statistics on these crimes, strengthening legislative initiatives to combat them, and establishing training programs for law enforcement and judicial officials to deal more effectively with violent acts motivated by intolerance. Fulfilling these OSCE obligations will do much to advance Russia's efforts to battle hate crimes and other forms of intolerance.

Second, the Commission is seriously concerned about the Russian government's attempts to challenge international human rights institutions and undermine Russia's own domestic human rights advocacy. Although Russia has ratified international human rights treaties, Russian officials and other influential figures have challenged international human rights institutions, as well as the validity of human rights advocacy in Russia, charging that they are being used for political purposes. Moreover, Russian officials and other influential figures have complained of "double standards," "selectivity," and "politicization" when there is an inquiry into Russia's human rights practices. In the OSCE, for example, the Russian government has led efforts critical of the organization's election monitoring efforts and human rights scrutiny of Russia and neighboring countries.

It became clear to us as a result of our visit that the problem of rising ethnic and religious intolerance I described above has been exacerbated by the repeated efforts of Russian government officials to label foreign funding of non-governmental organizations (NGOs) as "meddling" in Russia's internal affairs. Moreover, the official branding of human rights organizations as "foreign" has increased the vulnerability of Russia's human rights advocates and those they defend. The Commission heard these and similar views expressed not only by Russian government officials, but also by Metropolitan Kirill of the Russian Orthodox Church. This is a particular cause for concern, given the increasingly prominent role provided to the Russian Orthodox Church in Russian state and public affairs.

Third, the Commission is concerned about increasing reports of official government actions against Muslims in Russia. The Commission acknowledges that the Russian government faces significant challenges as it addresses genuine threats of religious extremism and terrorism with a religious linkage in Russia. One challenge involves protecting the freedom of religion and other human rights of all persons, even as counter-terrorist efforts are undertaken. However, the Commission met with a number of NGOs and human rights activists who are tracking human rights abuses against Muslim individuals and communities, a problem that is beginning to gain some public attention inside Russia. Russian human rights defenders provided evidence of numerous cases of Muslims being prosecuted for extremism or terrorism despite no apparent relation to such activities. Human rights activists also presented evidence that dozens of individuals have been detained for possessing religious literature such as the Koran, or on the basis of evidence planted by the police. In several regions, mosques have been closed by Russian government officials. These developments are of special concern because Muslims are the second largest religious community in Russia and because any arbitrary actions such as those described to us may in fact increase instability and exacerbate radicalism among Russia's Muslim community.

Fourth, the Commission is concerned that the new, restrictive NGO law will have a negative affect on religious groups, in addition to non-governmental and non-commercial organizations. Although Aleksandr Kudryavtsev, Director of the Presidential Administration Liaison with Religious Organizations, told the Commission delegation that the new law would have little impact on religious organizations, Sergei Movchan, the director of the Federal Registration Service (FRS), confirmed that some of the law's most intrusive provisions do apply to religious organizations-and to charitable and educational entities set up by religious organizations, as well as to groups defending human rights. Under the new law, the 2,000 FRS employees who are charged with oversight of NGOs have broad discretion to summon an organization's documents, including financial information, as well as attend its events, without the group's consent or a court order. If violations are found, the FRS can call for court proceedings against the group, possibly resulting in the group's eventual liquidation. FRS officials told the Commission that agency regulations on the use of its new powers had not yet been finalized, but that officials would be able to use this new authority if they believed that an organization was acting contrary to its charter.

One key purpose of the new legislation was to prevent NGOs-especially those receiving foreign funding-from engaging in so-called political activities, a purpose not spelled out or defined in the legislation. Russia's human rights organizations are particularly vulnerable to this implicit prohibition, which is subject to arbitrary interpretation. It is the Commission's view that these provisions of the NGO law on foreign funding are a part of the broader effort by Russian officials described above to link human rights groups to "foreign interference," and thus to discredit-and perhaps ultimately halt-their activities.

Finally, although people in today's Russian Federation generally are able to profess and practice the religion of their choice, experts, legal advocates, and representatives of religious communities in Russia told the Commission that minority religious groups continue to face restrictions on religious activities at the regional and local level. These ongoing problems include de facto state-controlled media attacks that incite intolerance; registration denials;

refusals to allot land to build places of worship; restrictions on rental space for religious activities; and long delays in the return of religious property. The Commission learned from the Russian Human Rights Ombudsman's office and others that the restrictions and limitations that produce these complaints are based on subjective factors, including the notion that Russian officials should accord different treatment to the four so-called "traditional" religions (Russian Orthodoxy, Islam, Judaism, and Buddhism) compared to that accorded the many "non-traditional" religious communities in Russia. Another factor is the alleged influence on local and regional government leaders of Russian Orthodox priests who object to the activities of other religious groups.

Metropolitan Kirill told the Commission that although all religious communities should be equal under the law, it was unrealistic to expect that all such groups would be accorded equal respect by government officials, especially given the role that the so-called "traditional" religions have played in Russian history and society. However, this distinction between equal legal rights and perceived cultural and social significance is unfortunately not always understood by officials at the local and regional level. The Commission also noted from its discussions with Russian officials, religious leaders and NGO representatives that there was a lack of interest at the local level in promoting engagement among the various religious communities in order to build a culture of tolerance that would support freedom of thought, conscience, and religion or belief and the associated freedoms needed for its exercise.

Commission Recommendations

Based on the findings and observations from its visit to Russia, the Commission has made several recommendations. The Commission recommends that the U.S. government encourage the Russian government to take the following actions:

--Affirm publicly that all religious communities in Russia are equal under the law and entitled to equal treatment, publicly express its reported opposition to any legislation that would grant preferences to so-called "traditional" religions over other groups, and direct national government agencies to address and resolve continuing violations of religious freedom at the regional and local levels.

--Speak out frequently and specifically to the citizens of Russia to condemn specific acts of xenophobia, anti-Semitism, and hate crimes, and to affirm a commitment to uphold the multi-ethnic and multi-confessional nature of Russian society. In addition, the government of President Vladimir Putin should protect the religious freedom and other human rights of Russia's Muslim community, and, in the context of counter-terrorism, avoid taking steps that could exacerbate religious extremism.

--Although the new law on NGOs is troublesome enough to warrant its full withdrawal, one minimal step needed immediately is to develop regulations that clarify and sharply limit the state's discretion to interfere with the activities of NGOs, including religious groups. These regulations should be developed in accordance with international standards and in conformity with international best practices.

--Implement the many specific recommendations made by Russia's Presidential Council on Human Rights, the official Human Rights Ombudsman's office, and the Council of Europe's European Commission against Racism and Intolerance to address xenophobia and prevent and punish hate crimes, including:

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- a complete review of the residence registration system, including its effects on migrants

- a full implementation by regional and local law enforcement personnel of criminal code provisions on incitement and violence motivated by ethnic or religious hatred, in accordance with standards established by the European Court of Human Rights; and

- the establishment of 1) national and local mechanisms to collect and publish official statistics on such crimes; and 2) units of local law enforcement dedicated to their prevention and prosecution.

In advocating all of these steps, the President and Secretary of State should work to encourage the other G-8 countries to speak with one voice on these matters. President Bush and other U.S. officials should also be prepared to counter the persistent claims by Russian leaders that U.S. and UN efforts to advance human rights concerns constitute foreign "meddling" or are aimed at harming the Russian Federation.

Conclusion

To conclude, the Commission is continuing to examine options for U.S. policy to advance freedom of religion and related human rights in Russia, and we plan to issue a further report and recommendations in the fall. As always, we look forward to continuing to work with the Helsinki Commission on the situation in Russia and other OSCE members states.